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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AUG 21 1987

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action
No. CV-86-1591

EPA, REGION III
OFFICE OF REGIONAL COUNSEL

LOUIS SERAFINI,
ALFRED BERNABEL,
ERNEST BUTTAFOCO &
MICHAEL J. NAPLES, JR.,
each individually and trading as
EMPIRE CONTRACTING COMPANY;
CITY OF SCRANTON, PENNSYLVANIA;
AMERICAN CAN COMPANY;
CHAMBERLAIN MANUFACTURING CORPORATION;
LITTON INDUSTRIES, INC.;
LITTON SYSTEMS, INC.;
LITTON BUSINESS SYSTEMS, INC.;
RCA CORPORATION;
TECHNOGRAPHICS, INC.;
TECHNOGRAPHICS FITCHBURG COATED
PRODUCTS, INC.;
JOHN C. BAUMANN,
DORA BRIDY,
CECELIA E. RINALDI, as Trustee for
Carol Rinaldi Fisher, Arthur J.
Rinaldi, Jr., and David Rinaldi, &
DORA BRIDY, as Personal Representative
of the Estate of Edward A. Bridy,
each individually and trading as
O.S.C. COMPANY; and
ANDREW EVANISH,
MICHAEL KOZAR, &
EVELYN ELIZABETH KOZAR, as Trustee for
Andrew Evanish, Michael Kozar,
Evelyn Elizabeth Kozar, George
Evanish, Mary Moskwa, Anna Peskin,
John Evanish and Michael Evanish,
Defendants.

FILED
SCRANTON

MAY 29 1987

DONALD R. BERRY
PER DEPUTY CLERK

approval
Consent
Decree
FILED 90-11-3-43
HARRISBURG, PA

DEPT. OF JUSTICE	FILE
R. BERRY, AUG 24 1987	CLERK
DEPUTY CLERK	CLERK
LANDS DIVISION	

CONSENT DECREE

Consent Decree from the Federal District Court for the Middle District of Pennsylvania
Date 8/20/87 By Donald R. Berry, Clerk
Date 8/20/87 By Donald R. Berry, Clerk
Date 8/20/87 By Donald R. Berry, Clerk
Date 8/20/87 By Donald R. Berry, Clerk

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AR200036

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action
No. CV-86-1591

LOUIS SERAFINI,
ALFRED BERNABEI,
ERNEST BUTTAFOCO &
MICHAEL J. NAPLES, JR.,
each individually and trading as
EMPIRE CONTRACTING COMPANY;
CITY OF SCRANTON, PENNSYLVANIA;
AMERICAN CAN COMPANY;
CHAMBERLAIN MANUFACTURING CORPORATION;
LITTON INDUSTRIES, INC.;
LITTON SYSTEMS, INC.;
LITTON BUSINESS SYSTEMS, INC.;
RCA CORPORATION;
TECHNOGRAPHICS, INC.;
TECHNOGRAPHICS FITCHBURG COATED
PRODUCTS, INC.;
JOHN C. BAUMANN,
DORA BRIDY,
CECELIA E. RINALDI, as Trustee for
Carol Rinaldi Fisher, Arthur J.
Rinaldi, Jr., and David Rinaldi, &
DORA BRIDY, as Personal Representative
of the Estate of Edward A. Bridy,
each individually and trading as
O.S.C. COMPANY; and
ANDREW EVANISH,
MICHAEL KOZAR, &
EVELYN ELIZABETH KOZAR, as Trustee for
Andrew Evanish, Michael Kozar,
Evelyn Elizabeth Kozar, George
Evanish, Mary Moskwa, Anna Peskin,
John Evanish and Michael Evanish,

Defendants.

CONSENT DECREE

WHEREAS, the United States of America, on behalf of
the Administrator of the United States Environmental Protection

AB2000037

Agency, filed a complaint in this matter on November 10, 1986, pursuant to Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9606, for injunctive and other equitable relief to remedy a condition that presents, or may present, an imminent and substantial endangerment to human health or welfare or the environment and, pursuant to Sections 104 and 107 of CERCLA, 42 U.S.C. §§ 9604 and 9607, for (i) reimbursement of response costs incurred or to be incurred by the United States (as hereinafter defined) in response to a release or threat of release of hazardous substances from the Taylor Borough Site in Lackawanna County, Pennsylvania (as hereinafter defined) and (ii) a declaratory judgment, under Section 113(g)(2) of CERCLA, as amended, 42 U.S.C. § 9613(g)(2), and 28 U.S.C. § 2201, as to liability for future response costs;

WHEREAS, the Settling Defendants (as hereinafter defined) deny any and all legal or equitable liability under any federal or state statute, regulation, or common law for any endangerment, nuisance, response, removal or remedial costs incurred or to be incurred by the United States, or for damages caused by storage, treatment, handling, or disposal activities, by release or threat of release of hazardous substances, including the Waste Materials (as hereinafter defined), to, at, from, or near the Taylor Borough Site, or by the Waste Materials, if any, disposed of by, or on behalf of, the Settling Defendants at the Taylor Borough Site;

WHEREAS, the United States and the Settling Defendants agree that settlement of this matter and entry of this Consent

RR 200038

Decree are made in good faith in an effort to avoid expensive and protracted litigation and to settle and resolve claims that were and are disputed as to validity and amount, which were raised by the United States in this action;

WHEREAS, the present intention of the United States, subject to prosecutorial discretion, which shall not be subject to judicial review, is to seek from the Non-Settling Defendants (as hereinafter defined) all relief which the United States has sought in the complaint filed herein but for which the United States has not been compensated by the terms of this Consent Decree;

WHEREAS, all parties to this Consent Decree consent to the entry thereof;

NOW, THEREFORE, it is hereby ordered, adjudged, and decreed as follows:

I. JURISDICTION

This Court has jurisdiction over the subject matter herein and the parties to this action.

II. DEFINITIONS

Whenever the following terms are used in this Consent Decree or in any exhibits or appendices hereto, the definitions specified hereinafter shall apply:

(A) "Contractor" shall mean the company or companies selected by the Settling Defendants and retained by Trustee (as hereinafter defined), on behalf of the Settling Defendants in accordance with the Trust Agreement (as hereinafter defined)

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executed by the Settling Defendants, to undertake and complete the Work (as hereinafter defined). Each Contractor and any subcontractor retained by Contractor or Trustee shall be deemed to be related by contract to each of the Settling Defendants within the meaning of 42 U.S.C. § 9607(b)(3) and to be acting on behalf of, and as an agent for, each of the Settling Defendants. Each Contractor and any subcontractor retained by Contractor or Trustee shall be qualified to perform those portions of the Work for which it has been retained; provided, however, that the United States reserves the right to disapprove any such Contractor in accordance with Paragraph VIII(A) hereof.

(B) "Covered Matters" shall mean any and all civil claims against, and civil liability, if any, of the Settling Defendants under federal statutory or regulatory law or common law, if any, arising under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. ("RCRA"); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"); the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300 et seq.; the Toxic Substances Control Act, 14 U.S.C. § 2601 et seq.; the Federal Insecticide Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Refuse Act, 33 U.S.C. § 407; and any other statute or regulation presently enforced or administered by EPA (as hereinafter defined), for:

- (1) the Waste Materials and the Taylor Bofough
Site, including the transportation,

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- handling, treatment, storage, disposal, and release or threat of release of the Waste Materials to or at the Taylor Borough Site;
- (2) injury to or destruction or loss of "natural resources," as that term is defined in 42 U.S.C. § 9601(16), including, without limitation, groundwater, caused by or relating to the Waste Materials at the Site (as hereinafter defined);
 - (3) all Response Costs (as hereinafter defined);
 - (4) the O & M Activities (as hereinafter defined), the total cost thereof, including, but not limited to, administration, oversight, personnel, litigation and enforcement, and the acts or omissions of any person or entity involved in the performance of those activities; and
 - (5) any and all civil claims that were, could, or should have been asserted in this civil action and that arise from the same series of transactions or occurrences as the claims asserted in this civil action.

The term "Covered Matters" shall not include liability, if any, under any criminal statute or any liability arising out of or relating to the transportation, treatment, handling, disposal, storage, or release or threatened release of Waste Materials removed from the Taylor Borough Site.

(C) "EPA" shall mean the United States Environmental Protection Agency.

(D) "Escrow Bank" shall mean the financial institution that shall hold the monies contributed by the Settling Defendants pursuant to this Consent Decree. Escrow Bank shall make the payments pursuant to Paragraphs VI and VII hereof upon the instruction of Trustee and/or the Settling Defendants.

(E) "National Contingency Plan" shall have the meaning as that term is defined in Section 105 of CERCLA, 42 U.S.C. § 9605.

(F) "Non-Settling Defendants" shall mean the defendants in this action that have not executed this Consent Decree or have not made full payments pursuant to Paragraphs VI, VII and IX of this Consent Decree, including "Defaulting Defendant" as that term is defined in Paragraph VI(F) hereof.

(G) "O & M Activities" shall mean the operation, maintenance, and groundwater and surface water monitoring activities, as are set forth in the Records of Decision of EPA, dated June 28, 1985, and March 17, 1986, and as may be subsequently modified.

(H) "Parties" shall mean the United States (including EPA) and the Settling Defendants.

(I) "Response Costs" shall mean any and all legal, litigation (including litigation against the Non-Settling Defendants), enforcement, administrative, personnel, AR200042

removal, remedial, response, transportation, disposal, investigative (including the remedial investigation/feasibility study and any other studies or reports), oversight, overhead, and other direct or indirect costs (including any and all interest thereon) incurred or to be incurred by the United States at or in connection with the Taylor Borough Site, the Waste Materials, or with the execution and administration of this Consent Decree, including, but not limited to, costs expended in accordance with the National Contingency Plan. Response Costs shall not include any costs that may be incurred by the United States (1) pursuant to Paragraph XVI(B) hereof, (2) in enforcing the terms of this Consent Decree through judicial proceedings, and (3) in enforcing the terms of this Consent Decree against any Defaulting Defendant.

(J) "Settling Defendants" shall mean the defendants in this action who have executed this Consent Decree and have made all payments pursuant to Paragraphs VI, VII and IX of this Consent Decree, including their respective, present and future, successors and assigns and the present and future successors and assigns of their divisions.

(K) "Taylor Borough Site" or "Site" shall mean the "facility," as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and 40 C.F.R. § 300.6, consisting of approximately one hundred twenty-five (125) acres, located on Snake Road in Lackawanna County, Pennsylvania, approximately three (3) miles south of the City of Scranton, Pennsylvania (41°43'02" North Latitude and 73°42'02" West Longitude). AR200043

Site is more specifically delineated on a map marked as Exhibit 1 and made a part hereof.

(L) "Taylor Borough Site Trust Fund" or "Trust Fund" shall mean the fund managed by Trustee and held by Escrow Bank, to which the Settling Defendants shall make the payments specified in this Consent Decree. The Trust Fund shall include the monies paid by the Settling Defendants pursuant to Paragraph VI hereof and any interest accruing thereto.

(M) "Trustee" shall mean the person(s) or entity(ies) who shall be designated pursuant to the Trust Agreement entered into by the Settling Defendants in the form of Exhibit 2 hereto. Trustee shall have all power and authority to fulfill the obligations of the Settling Defendants under this Consent Decree, including employment of Contractor on behalf of the Settling Defendants and instruction to Escrow Bank to pay the sums to Contractor for performance of the Work and to the United States pursuant to Paragraphs VI, VII and IX hereof. Trustee shall be deemed to be related by contract to each of the Settling Defendants within the meaning of 42 U.S.C. § 9607(b)(3) and to be acting on behalf of, and as an agent for, each of the Settling Defendants. In the event of the resignation or removal of Trustee, the Settling Defendants shall, within ten (10) days thereafter, designate another Trustee and shall notify the United States of the identity of such Trustee; provided, however, that the United States may disapprove such Trustee if the United States reasonably determines that Trustee is not qualified to perform the duties hereunder. TA 200044

States shall notify the Settling Defendants of its disapproval of Trustee and the reason(s) therefor within ten (10) days following receipt of the notice of the identity of such Trustee, in which case another Trustee shall be designated by the Settling Defendants within twenty (20) days of receipt of the notice of disapproval. In the event the United States does not notify the Settling Defendants of its disapproval of Trustee within the time prescribed herein, the United States shall be deemed to have waived its right to disapprove such Trustee.

(N) "Trust Agreement" shall have the meaning ascribed thereto in Paragraph VI(A) hereof.

(O) "United States" shall mean the United States of America.

(P) "Waste Materials" shall mean any "hazardous waste," as defined by 42 U.S.C. § 6903(5); any "hazardous substance," as defined by 42 U.S.C. § 9601(14); or any "pollutant or contaminant," as defined by 42 U.S.C. § 9601(33), found or located at or removed from the Taylor Borough Site.

(Q) "Work" shall mean the implementation, in accordance with Paragraph VIII hereof, of the scope of work described in Exhibit 3 hereto and any schedules or plans required to be submitted pursuant thereto. The term "Work" shall not include the O & M Activities.

III. PARTIES BOUND

This Consent Decree shall apply to and be binding upon the signatories to this Consent Decree and their respective present and future, successors and assigns, including the

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present and future successors and assigns of their divisions. The undersigned representative(s) of each party to this Consent Decree certifies that he or she is fully authorized by the party or parties, whom he or she represents, to enter into the terms and conditions of this Consent Decree, to execute this Consent Decree, and to bind legally such party or parties to this Consent Decree. With regard to Contractor and any subcontractor, laboratory or consultant retained to perform the Work required by this Consent Decree, the Settling Defendants shall provide a copy of this Consent Decree and shall make compliance with the terms of this Consent Decree a condition of any contract for such Work.

IV. STATEMENT OF PURPOSE

The purposes of this Consent Decree, ~~as well as~~ the intention of the Parties, are to: (A) protect the public health and welfare and the environment from hazardous conditions which may be presented by any release or threatened release of Waste Materials at and from the Site; (B) further the public interest by avoiding protracted litigation between the Parties; (C) encourage the early and equitable resolution of claims by the United States against the Settling Defendants; and (D) settle any and all claims asserted against the Settling Defendants by the United States in the complaint filed in this matter.

V. COMMITMENTS OF PARTIES

(A) In consideration of each of the promises, covenants, warranties, and undertakings of the United States set forth herein, the Settling Defendants hereby agree: (1) to

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finance the Work and to either perform such Work or have it performed on their behalf in accordance with the standards and specifications and within the time period set forth in Exhibit 3 hereto, which is incorporated herein by reference and made a part hereof as though it were set forth verbatim; (2) to make the payment to the United States in accordance with Paragraph VII(A) hereof; and (3) to make the payment for the O & M Activities in accordance with Paragraph VII(C) hereof.

(B) Subject to Paragraph VI(C) hereof, the United States and the Settling Defendants hereby acknowledge and agree that the total payment of the Settling Defendants for implementing the Work and making the payments pursuant to Paragraph VII hereof represents a settlement and compromise of a disputed claim and that such settlement and compromise represent a fair and equitable resolution of the responsibility and liability, if any, of the Settling Defendants for Covered Matters.

(C) The United States agrees that its present intention, subject to prosecutorial discretion, which shall not be subject to judicial review, is to seek from the Non-Settling Defendants or other potentially liable parties subsequently identified, and to attempt to collect from the Non-Settling Defendants and such other parties, all claims, costs, and damages for which the United States has not been compensated under the terms of this Consent Decree. Nothing in this Consent Decree shall preclude the Settling Defendants from asserting a claim against the Non-Settling Defendants or any other parties for indemnification or contribution.

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VI: TAYLOR BOROUGH SITE TRUST AGREEMENT AND FUND

(A) Within thirty (30) days of the entry of this Consent Decree, the Settling Defendants shall execute a trust agreement ("Trust Agreement") establishing the Taylor Borough Site Trust Fund in the form of Exhibit 2 hereto. The Trust Agreement shall be construed to confer upon Trustee all powers and authority necessary to fulfill the obligations of the Settling Defendants under this Consent Decree. Upon its execution, the Settling Defendants shall promptly provide a copy of the Trust Agreement to the United States.

(B) Within forty (40) days after the entry of this Consent Decree, each of the Settling Defendants shall pay to Escrow Bank the amount based on the percentage that is shown in Exhibit 4 hereto, and Escrow Bank shall deposit such monies into the Trust Fund. Such payment by each of the Settling Defendants is not a fine, penalty, or monetary sanction. In accordance with the terms of the Trust Agreement, Trustee shall use the monies in such Trust Fund for (1) the payment of Contractor for performance of the Work, (2) the payment to the United States as provided in Paragraph VII(A) hereof, (3) the payment for the O & M Activities in accordance with Paragraph VII(C) hereof, and (4) any other proper expense or purpose necessary for the fulfillment of the obligations of the Settling Defendants under this Consent Decree. The Trust Fund shall be and remain the property of each of the Settling Defendants, and nothing herein shall be deemed to confer any right to or interest in the Taylor Borough Site Trust Fund upon any other person.

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entities, including, without limitation, the United States, except as provided in the Trust Agreement. Upon completion of the Work, any monies remaining in the Taylor Borough Site Trust Fund (except for the amount of monies reserved for the O & M Activities as set forth in Paragraph VII(C) hereof) shall be returned to the Settling Defendants as provided in the Trust Agreement.

(C) In the event the cost of the Work exceeds the amount allocated for the Work and paid under this Paragraph VI, Trustee shall notify the Settling Defendants, and the Settling Defendants shall, within thirty (30) days of receipt of the notice by Trustee, be responsible for and shall pay to the Taylor Borough Site Trust Fund such additional amounts, in the same proportions relative to each other as shown in Exhibit 4 hereto, as are necessary to fund such additional cost. Trustee shall be required to notify the United States of the amount and timing of the required payments.

(D) In the event the United States provides notice of the accrual of stipulated penalties pursuant to Paragraph IX(D) hereof, each of the Settling Defendants shall, within twenty (20) days of receipt of the notice from the United States, pay to Trustee its share, in the same proportions relative to each other as shown in Exhibit 4 hereto and as set forth in Paragraph VI(F) hereof, of the stipulated penalties claimed to be owed. Trustee shall receive these payments, shall place them in an interest-bearing escrow account established for this purpose, and, thereafter, as set forth in Paragraphs IX(D) and (E) **EA 2200049**

shall either pay the stipulated penalties claimed by the United States, hold the funds received in the escrow account, or return the payments, in whole or in part, to the Settling Defendants.

(E) Any dispute that may arise between or among the Settling Defendants regarding the amount, purpose, or other matters pertaining to any additional payments required pursuant to this Paragraph VI or between Settling Defendants and a Defaulting Defendant (as defined in Paragraph VI(F) hereof) shall be resolved in accordance with the dispute resolution procedures set forth in Paragraph XIV of this Consent Decree. In any such dispute the Settling Defendants shall seek review by this Court expeditiously so as not to delay the performance of the Work. Such dispute shall not be a basis for delaying any payment required by the Consent Decree, nor shall such dispute constitute force majeure under Paragraph XIII hereof.

(F) Any one of the Settling Defendants that fails to make the initial or any additional payment required of it by this Consent Decree, including any payment due pursuant to Paragraphs VI(D) and IX(D) hereof regarding stipulated penalties, shall become a "Defaulting Defendant." In the event that any of the Settling Defendants becomes a Defaulting Defendant, the remaining Settling Defendants shall ensure the uninterrupted progress of the Work and payment of any stipulated penalties (except as provided below) by advancing payment to Trustee in an amount equal to its respective proportional share of such initial or additional payment plus a pro rata share of

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the amount-owed by the Defaulting Defendant in the same proportion relative to each other as reflected on Exhibit 4 hereto. In no event shall any of the Settling Defendants have any liability or responsibility for payment of any stipulated penalties owed by a Defaulting Defendant for failure to make any payment pursuant to this Consent Decree.

(G) The Settling Defendants shall ensure that the periodic financial reports submitted by Trustee or Contractor pursuant to Paragraph X(E) hereof include cash flow projections for the level of funds that will be necessary for the Work during the succeeding six (6)-month period. The United States does not guarantee the monetary sufficiency of the Taylor Borough Site Trust Fund established by this Paragraph VI.

VII. PAYMENT BY SETTLING DEFENDANTS

(A) Within ninety (90) days of the entry of this Consent Decree, the Settling Defendants, through Trustee, shall pay to the United States the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), as the total payment of the share of the Settling Defendants of the Response Costs.

(B) Payment of the sum set forth in Paragraph VII(A) hereof shall be made by certified check, which shall be delivered to the United States Environmental Protection Agency, EPA Superfund, P.O. Box 37100-3M, Pittsburgh, Pennsylvania 15251, and shall be made payable to the "Hazardous Substances Superfund." A copy of the check shall be sent to Regional Hearing Clerk, United States Environmental Protection Agency,

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Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

(C) Within ninety (90) days of the entry of this Consent Decree, the Settling Defendants shall fund and assist in establishing an account for the purpose of paying for the O & M Activities. The terms of any agreement establishing such account shall be subject to the prior approval of the United States. Within ten (10) days after this account is established, the Settling Defendants shall pay the sum of FOUR HUNDRED TEN THOUSAND THIRTY-NINE DOLLARS (\$410,039.00) into such account. The Parties acknowledge and agree that the amount paid for the O & M Activities includes a premium to account for any and all contingencies, including cost overruns, that may arise during the performance of the O & M Activities. Nothing herein is intended to require the Settling Defendants to perform O & M Activities, or any portion thereof, or to impose any liability or responsibility on the Settling Defendants for the performance or non-performance of the O & M Activities.

(D) The Response Costs incurred by the United States in connection with the Taylor Borough Site were not inconsistent with the National Contingency Plan. The United States affirms that these Response Costs (exclusive of interest) were estimated, as of about July 31, 1986, to be approximately ONE MILLION SIX HUNDRED NINETY-THREE THOUSAND ONE HUNDRED FIFTY DOLLARS (\$1,693,150.00), consisting of the following items:

(1) EPA

Contractors:

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\$ 1,247,618.00

Payroll:	\$ 89,762.00
Interagency Agreements:	\$ 27,731.00
Travel:	\$ 3,671.00
Overhead:	\$ 306,098.00
(2) Department of Justice	\$ 18,270.00

VIII. PERFORMANCE OF WORK

(A) The Settling Defendants, through Trustee, shall, within sixty (60) days of the entry of this Consent Decree, notify the United States of the identity of Contractor. The United States retains the right to disapprove Contractor if the United States reasonably determines that Contractor is not qualified to perform the Work. The United States shall notify the Settling Defendants of its disapproval of Contractor and the reason(s) therefor within ten (10) days following receipt of the notice of the identity of such Contractor, in which case another Contractor shall be designated by the Settling Defendants as soon as practicable following receipt of the notice of disapproval. In the event the United States does not notify the Settling Defendants and Trustee of its disapproval of Contractor within the time prescribed herein, the United States shall be deemed to have waived its right to disapprove such Contractor. The United States shall not be considered a party to any contracts between or among the Settling Defendants, Trustee, Contractor, and/or any subcontractors retained to perform the Work.

(B) The Settling Defendants, through Trustee, shall require Contractor to purchase, and maintain in for AR200053

insurance policies to protect the United States and the public against all liability arising out of the acts or omissions of Contractor and any subcontractor retained to perform the Work, in amounts not less than those specified below:

(1) Workmen's Compensation and Employer's Liability Insurance in accordance with the laws of the Commonwealth of Pennsylvania;

(2) Comprehensive General Liability Insurance, including Contractual Liability -

Bodily Injury Liability \$1,000,000 each person
\$1,000,000 each accident

Property Damage Liability \$1,000,000 each accident
\$1,000,000 aggregate;

(3) Automobile Liability Insurance-

Bodily Injury Liability \$ 500,000 each person
\$1,000,000 each accident

Property Damage Liability \$ 500,000 each accident;
and

(4) Umbrella Policy in the amount of \$5,000,000.00, which shall provide coverage in excess of the underlying coverage described in subparagraphs (B)(1)-(3) above.

Prior to the commencement of the Work, the Settling Defendants, through Trustee or Contractor, shall provide the United States with a copy of the certificates of insurance.

(C) All activities undertaken by the Settling Defendants, Trustee, Contractor, or subcontractors pursuant to this Consent Decree shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws and regulations and with the permits and approvals, if any.

The United States hereby determines that the obligations and procedures authorized under this Consent Decree are consistent

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with the authority of the United States under applicable law to establish appropriate remedial measures for the Taylor Borough Site.

(D) The United States agrees to use its best efforts to expedite the issuance to Contractor of the federal permits and approvals, if any, and to assist Contractor in obtaining the state permits and approvals, if any, necessary for the Work, upon the timely filing of applications that comply with applicable law.

(E) Paragraph XIII hereof shall govern delays (1) in obtaining permits or approvals required for the Work, (2) from the denial of any such permits or approvals, and (3) from the imposition of requirements not set forth in or contemplated by the Work. Paragraph XIII hereof shall also govern delays of up to thirty (30) days in the scheduled commencement of the Work occasioned by difficulties in obtaining insurance in the amounts set forth in Paragraph VIII(B) hereof. If there is a delay of greater than thirty (30) days in the scheduled commencement of the Work due solely to difficulties in obtaining insurance in the amounts set forth in Paragraph VIII(B) hereof, the Settling Defendants agree to provide the difference between the maximum amount of coverage required of Contractor in Paragraph VIII(B) hereof and the amount of coverage that Contractor is able to obtain, or to purchase additional coverage for that difference.

IX. COMMENCEMENT AND COMPLETION OF WORK

AR200055

(A) Subject to Paragraph XIII hereof, the Settling Defendants, through Contractor, shall commence the Work no

later than ninety (90) days from the date of the entry of this Consent Decree or April 1, 1987, whichever is later. The Work shall be completed in accordance with the standards, specifications, and the schedule of completion set forth in Exhibit 3 hereto. The United States acknowledges that it has approved the Work to be performed pursuant to this Consent Decree. The Parties agree that the Work or the schedule of completion may be modified by agreement of the Parties following notice from the party seeking the modification to all other parties. If agreement on a proposed modification cannot be reached, any of the Parties may seek resolution of the dispute pursuant to Paragraph XIV hereof.

(B) The Settling Defendants, through Trustee or Contractor, shall notify the United States within forty-eight (48) hours of the completion of all elements set forth in Exhibit 3 hereto. The United States shall review the Work and indicate its agreement or disagreement as to the completion of the Work within sixty (60) days of (1) receipt of such notice or (2) receipt of all sampling data, whichever is later.

(C) If the United States believes that the Work has not been completed in accordance with the standards and specifications set forth in Exhibit 3 hereto, it shall notify the Settling Defendants, Trustee, and Contractor of what it believes ought to be done to complete the Work, referencing the specific portion(s) of Exhibit 3 and proposing a schedule of completion. If Trustee or any of the Settling Defendants does not, within thirty (30) days thereafter, object to the measure

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proposed by the United States, the Settling Defendants, through Contractor, shall expeditiously undertake and complete such measures in accordance with the proposed schedule of completion. If Trustee or any of the Settling Defendants objects to such proposed measures, Trustee or such Settling Defendants shall, within thirty (30) days thereafter, notify the United States of the objections and the reasons therefor. In the event the Parties cannot resolve any dispute with respect to the Work, all such disputes shall be resolved in accordance with Paragraph XIV of this Consent Decree.

(D) Subject to Paragraph XIII hereof, the Settling Defendants and a Defaulting Defendant, if any, shall be liable to the United States for stipulated penalties in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) a day for the first thirty (30) days and THREE THOUSAND DOLLARS (\$3,000.00) a day thereafter, for each day during which the Settling Defendants and a Defaulting Defendant, if any, fail to comply with the time requirements set forth in this Consent Decree, including, but not limited to, any payment requirements or schedule of completion established pursuant to the Work; provided, however, that the Settling Defendants shall be excused from paying any stipulated penalties for failure to achieve the interim completion dates established pursuant to the Work, if the final date for completion of the Work is achieved. The United States shall provide the Settling Defendants, Trustee, and a Defaulting Defendant, if any, notice of the accrual of stipulated penalties, along with the basis

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for such a determination. In accordance with Paragraphs VI(D) and VI(F) hereof, each of the Settling Defendants shall pay its share of the stipulated penalties to Trustee within twenty (20) days of receipt of notice from the United States. Subject to Paragraphs XIII and XIV hereof, the accrued, stipulated penalties (plus any accrued interest) shall become due and payable to the United States: (1) in the case of a failure to achieve the interim completion dates, within thirty (30) days of the date the Work is completed in accordance with this Paragraph IX, if and only to the extent that the final date for completion of the Work is not achieved and (2) in all other cases, within thirty (30) days of receipt of the notice from the United States that stipulated penalties are due and payable if the Settling Defendants and a Defaulting Defendant, if any, do not dispute the claimed penalties. If such stipulated penalties are disputed, the stipulated penalties (plus any accrued interest) shall become due and payable to the United States within twenty (20) days of the resolution of the dispute through informal negotiations or by the Court, to the extent the resolution upholds the claim of the United States for any such stipulated penalties. Such stipulated penalties (plus any accrued interest) shall be paid by certified check, payable to the "Hazardous Substances Superfund," and shall be delivered to the United States Environmental Protection Agency, EPA Superfund, P.O. Box 37100-3M, Pittsburgh, Pennsylvania 15251. A copy of the check shall be sent to Regional Hearing Clerk, United States Environmental Protection

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Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

(E) Any dispute arising in connection with the stipulated penalties claimed as due and payable by the United States shall be resolved in accordance with the dispute resolution provisions of Paragraph XIV hereof. If the dispute is resolved against the United States in whole or in part, Trustee shall refund the stipulated penalties (plus any accrued interest), which were claimed by the United States but determined not to be due, to each of the Settling Defendants and a Defaulting Defendant, if any, in the proportion in which each contributed to the amount of the disputed penalties held in the escrow account.

(F) The stipulated penalties set forth above shall be in addition to any other remedies or sanctions which may be available to the United States by reason of the failure of the Settling Defendants and a Defaulting Defendant, if any, to comply with the requirements of this Consent Decree.

(G) Nothing in this Consent Decree shall release the Settling Defendants and a Defaulting Defendant, if any, from liability arising out of or relating to the negligent acts or omissions or the negligent performance of the Work by Contractor or its subcontractor.

X. REPORTING; RETENTION AND
AVAILABILITY OF RECORDS AND INFORMATION

(A) The Settling Defendants, through Trustee or Contractor, shall provide monthly progress reports to the United States, which shall be submitted on the fifteenth day

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after the close of each month during the duration of the Work, setting forth: (1) a summary of activities completed or in progress during the preceding month; (2) any monitoring data or other results of sampling activity (if available); (3) any change or modification in the Work or schedule of completion; and (4) a schedule of the activities planned for the following three (3) months, if such activities differ from the schedule set forth in the Work.

(B) In the event any emergency event occurs during the Work, the Settling Defendants, through Contractor, shall promptly notify the EPA Emergency Response Section by telephone (Area Code (215) 597-9898), and shall, within ten (10) days thereafter, supply to the United States a report setting forth the emergency event(s) that occurred and the measures taken and/or to be taken in response thereto.

(C) Within thirty (30) days of the conclusion of any emergency event, the Settling Defendants, through Contractor, shall submit a report setting forth the actions taken to respond to the emergency event.

(D) All data, factual information, and documents submitted by the Settling Defendants to the United States pursuant to this Consent Decree shall be subject to public inspection unless identified as confidential by the Settling Defendants in conformance with 40 C.F.R. Part 2. The data, factual information, and documents so identified as confidential will be disclosed only in accordance with EPA regulations. The Settling Defendants shall not assert a claim

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of confidentiality regarding any hydrogeological or sampling data or any data submitted in support of a remedial proposal or any other scientific or engineering tests. Notwithstanding the foregoing, all documents exchanged by the Parties relating to issues of liability or the determination of what additional remedies, if any, other than those specifically required by the terms of this Consent Decree may be necessary to remedy conditions at the Site, shall be treated in accordance with the Freedom of Information Act, 5 U.S.C. § 552, and 40 C.F.R. Part 2.

(E) The Settling Defendants shall direct Trustee or Contractor to provide to the United States copies of the financial reports, which Trustee is obligated to provide to the Settling Defendants pursuant to the Trust Agreement, at the offices set forth in Paragraph XVII hereof at the same time that they are provided to the Settling Defendants.

(F) Upon completion of the Work and termination of this Consent Decree, the Settling Defendants, through Contractor or Trustee, shall preserve for a period of six (6) years all records, documents, and information of whatever kind, nature, or description relating to the performance of the Work at the Taylor Borough Site, regardless of any record retention policy to the contrary. Upon expiration of the six (6) year period, Contractor or Trustee shall notify the United States of the intent to destroy the records, documents or information, and the United States shall be given the opportunity to obtain a copy of all such records, documents, and information retained pursuant to this Paragraph X at its cost or expense. AR200061

event the United States does not, within sixty (60) days of receipt of such notice, notify Contractor or Trustee that it wishes to obtain, at its cost or expense, a copy of such records, documents, and information, then the United States shall be deemed to have waived its right to copy such records, documents, and information, and Contractor or Trustee may destroy same. Notwithstanding the foregoing, if same are not destroyed, the United States, at its cost or expense, may obtain copies of any available records, documents and information.

XI. GRANT OF SITE ACCESS

(A) Access to the Site is hereby granted and ordered to Trustee, the Settling Defendants, Contractor, the United States, and their respective representatives, as the case may be, for purposes of effectuating and monitoring all terms of this Consent Decree, performing the Work called for by this Consent Decree, and performing the O & M Activities.

(B) The Non-Settling Defendants who are, or may become, owners of any portion of the Taylor Borough Site are hereby ordered not to (1) interfere with or disturb the Work or the O & M Activities and (2) convey any title, easement, or other interest in the Site, or any portion thereof, unless such conveyance includes a covenant that (1) permits the United States, Settling Defendants, Contractor, Trustee, and their respective representatives to enter upon the Site for purposes of effectuating and monitoring all terms of this Consent Decree, performing the Work required under this Consent Decree, and performing the O & M Activities; (ii) contains an agreement

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not to interfere with or disturb the Work and the O & M Activities; and (iii) contains an agreement to inform any person or entity that subsequently acquires any title, easement, or other interest in the Site, or any portion thereof, of the requirements, conditions, and operative effect of this Paragraph XI. At least ninety (90) days prior to any conveyance that is subject to this Paragraph XI, the Non-Settling Defendants who are owners of any portion of the Site at the time of any such conveyance are hereby ordered to notify, by registered mail, the United States (in the person of the EPA Remedial Project Manager, U.S. Environmental Protection Agency, Region III, ATTN: Taylor Borough Site Remedial Project Coordinator, 841 Chestnut Building, Philadelphia, Pennsylvania 19107) of the intent to convey any title, easement, or other interest in the Site, or any portion thereof, and of the proposed wording of the covenant required under this Paragraph. If, during the performance of the Work, the United States receives notice from any of the Non-Settling Defendants who is an owner of any portion of the Site of the intent to make any conveyance which is the subject of this paragraph, the United States shall give notice to the Settling Defendants and Trustee. The restrictions and obligations set forth in this Paragraph XI shall run with the land and shall be binding upon any and all persons or entities that acquire any title, easement, or other interest in the Site or any portion thereof.

(C) To the extent access to or easements over property other than the Taylor Borough Site is required AR200063 proper and complete performance of this Consent Decree, the

Settling Defendants, through Trustee or Contractor, shall take reasonable efforts to gain access to or easements over such property, and, if necessary, the United States agrees to take reasonable efforts, consistent with its legal authority and subject to its prosecutorial discretion, to assist the Settling Defendants, through Trustee, in obtaining such access or easements. The United States shall exercise its legal authority to assist the Settling Defendants in obtaining any such access only to the extent necessary for the implementation of the Work, except as otherwise required by law. Paragraph XIII hereof shall govern the effect of any delays caused by difficulties in obtaining access to or easements over property not included in the Taylor Borough Site.

(D) A copy of this Consent Decree shall be filed by the Settling Defendants for record in the Lackawanna County Office of the Recorder, located in Scranton, Pennsylvania, for the parcels comprising the Taylor Borough Site to assist the Settling Defendants, through Trustee, in obtaining such access or easements over property not included in the Taylor Borough Site and as notice to persons of the contents and requirements of this Consent Decree.

XII. REPRESENTATIVES OF THE UNITED STATES

The United States shall designate an EPA Remedial Project Manager ("RPM"), a Deputy Remedial Project Manager, who shall be the Resident Engineer of the United States Army Corps of Engineers, and any other representatives, including

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employees of EPA and the Commonwealth of Pennsylvania, to review any records maintained pursuant to Paragraph X hereof and to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree for the Taylor Borough Site. The RPM shall have the authority lawfully vested in it pursuant to the National Contingency Plan, 40 C.F.R. Part 300, and other applicable federal laws and regulations. Upon their designation, the United States shall notify Contractor and Trustee of the identity of its representatives.

XIII. FORCE MAJEURE

(A) For purposes of this Consent Decree, the term "force majeure" shall mean any event (including, but not limited to, adverse weather conditions) arising from causes beyond the control of the Settling Defendants, Contractor, or Trustee that delays or prevents the performance of any obligation under this Consent Decree, including, but not limited to, completion of the Work (or any portion thereof), access to the Site, or access to or easements over any property in order to perform the Work; provided, however, that any delay arising from such event could not have been overcome by the exercise of due diligence. Force majeure shall not include increased costs or expenses, non-attainment of any standards set forth in the Work, except as specifically provided therein, or failure of the Settling Defendants to apply for any necessary permits or approvals or to provide all information required therefor in a timely manner.

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(B) When circumstances are occurring or have occurred that may delay or prevent performance of any obligation under this Consent Decree, the completion of any phase of the Work, or access to the Site or to any property on which any part of the Work is to be performed, whether or not due to force majeure, the Settling Defendants, through Contractor or Trustee, shall promptly notify the RPM by telephone (Area Code (215) 597-3164) or, in its absence, the Director of the Hazardous Waste Management Division of EPA, Region III, and shall, within ten (10) days thereafter, notify the United States of the reason(s) for and anticipated duration of such delay; the measures taken and to be taken to prevent or minimize the delay; and the timetable for implementation of any measures taken and/or to be taken. Failure to so notify the RPM or, in its absence, the Director of the Hazardous Waste Management Division of EPA, Region III, shall constitute a waiver of any claim of force majeure.

(C) Force majeure shall not be deemed to be a violation of any obligation of the Settling Defendants, Trustee, or Contractor and shall not make Settling Defendants liable for stipulated penalties. To the extent delay is caused by force majeure, the time for performance hereunder shall be extended for a period of time equal to the actual duration of the delay (including time required for remobilization, if any) caused by such force majeure; provided, however, that any such delay shall not automatically extend any subsequent obligation.

(D) The dispute resolution provisions of Paragraph XIV hereof shall apply to any dispute arising in connection with force majeure.

XIV. DISPUTE RESOLUTION

Any dispute between or among the United States, the Settling Defendants, and the Defaulting Defendants (if any) arising with respect to this Consent Decree (including the Exhibits hereto) and any obligation hereunder shall be resolved in accordance with this Paragraph XIV. If any party believes it has a dispute with another party, it shall notify such party, setting forth the matter(s) in dispute, and such dispute shall, in the first instance, be the subject of informal negotiations for a period of thirty (30) days following receipt of such notice. The period of informal negotiations may be extended by mutual agreement. If the dispute cannot be resolved through informal negotiations, then any party to the dispute may file a petition with this Court, setting forth the matter(s) in dispute and the relief requested. In an emergency, such petition may be filed prior to the expiration of the period of informal negotiations. The determination rendered by the Court shall be binding upon all Parties to this Consent Decree.

XV. EFFECT OF SETTLEMENT

(A) This Consent Decree was negotiated and executed in good faith by the United States and the Settling Defendants, and entry of this Consent Decree by the Court constitutes judicial approval of the settlement embodied in it.

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of § 113(f) of CERCLA, as amended, 42 U.S.C. § 9613(f). Subject to the provisions of Paragraph VI(C) hereof, the total payment of the Settling Defendants as set forth in Exhibit 4 hereto represents a fair and equitable resolution of the responsibility and liability, if any, of the Settling Defendants for Covered Matters, and the United States agrees that, subject to the satisfactory performance by the Settling Defendants of their obligations under this Consent Decree, each of the Settling Defendants shall obtain the covenants not to sue set forth in Paragraph XVI hereof.

(B) It is the present intention of the United States, subject to prosecutorial discretion, which shall not be subject to judicial review, to seek the remaining Response Costs and other relief from the Non-Settling Defendants by pursuing such Non-Settling Defendants in litigation.

(C) The parties agree that Section 113(f) of CERCLA, 42 U.S.C. § 9613(f), shall govern all questions of contribution. Any party in default of its obligation to make payments required by this Consent Decree shall lose the benefit of this paragraph. The United States acknowledges that, pursuant to § 113(f)(2) of CERCLA, the potential liability of the Non-Settling Defendants and other potentially liable parties, if any, shall be reduced by the amount of the settlement embodied in this Consent Decree.

(D) Each of the Settling Defendants agrees that if a suit or claim for contribution is brought against it for matters covered by this Consent Decree, it will timely notify the

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United States of the institution of such suit or claim. It is also agreed that the United States shall be under no obligation to assist the Settling Defendants in any way in defending against such suits for contribution.

XVI. COVENANT NOT TO SUE

(A) Except as specifically provided herein, upon entry of this Consent Decree the United States does hereby covenant not to sue the Settling Defendants or to take any administrative action or enforce judgment against the Settling Defendants for Covered Matters. In addition, the Settling Defendants hereby covenant not to sue the United States or each other for Covered Matters. To the extent that it concerns future liability, this covenant not to sue by the United States shall take effect upon certification by the United States pursuant to § 122(f)(3) of CERCLA that the Work has been completed (hereinafter referred to as "Certification").

(B) Notwithstanding any other provisions of this Consent Decree, the United States reserves the right to institute proceedings in this action or in a new action against any or all of the Defendants in this action seeking to compel such Defendants to perform additional response work at the Taylor Borough Site or to reimburse the United States for response costs (except those arising out of or relating to the acts or omissions of any person or entity performing the O & M Activities) incurred as a result of the following:

(1) If, prior to the Certification,

(a) conditions at the Taylor Borough Site
previously unknown to and undetected by the

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United States are discovered after the lodging of this Consent Decree and these conditions indicate that a hazardous substance has been, or is being, released or that there is a substantial threat of such a release into the environment; or
(b) the United States determines, based, in significant part, on information received after the lodging of this Consent Decree, that the Work is not protective of human health and the environment.

(2) If, subsequent to the Certification,

(a) conditions at the Taylor Borough Site previously unknown to and undetected by the United States are discovered after the Certification and these conditions indicate that a hazardous substance has been, or is being, released or that there is a substantial threat of such a release into the environment; or

(b) the United States determines, based, in significant part, on information received after the Certification, that the Work is not protective of human health and the environment.

(C) For purposes of Paragraph XVI(B)(1) hereof, conditions that were detected by or information that was known to the United States prior to the lodging of this Consent Decree

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shall include all conditions and information that were reflected in or that would have been necessarily inferred from (1) the Records of Decision (ROD) prepared by EPA for the Site, or any of the documents referenced in the ROD; (2) the Remedial Investigation/Feasibility Study (RI/FS) prepared by EPA for the Site, or any of the documents referenced in the RI/FS; (3) any other documents, records, or information that constitute the administrative record with respect to this matter; or (4) any documents, records, or information prepared by or on behalf of the United States pursuant to or in connection with this enforcement action or the settlement thereof. For purposes of Paragraph XVI(B)(2) hereof, conditions that were detected by or information that was known to the United States prior to the Certification shall include all conditions and information that were reflected in or that could have been inferred from items (1) through (4) above, as well as from (5) any documents, records, or information acquired by EPA or the United States Department of Justice in the performance of the O & M Activities; or (6) any other documents, records, or information acquired by EPA or the United States Department of Justice concerning the Site or the Work between the time of the lodging of this Consent Decree and the Certification.

(D) In the event the United States institutes proceedings pursuant to Paragraph XVI(B) hereof, the Settling Defendants hereby expressly reserve any and all defenses in such proceedings that they may have now or may have in the future, and such proceedings shall in no way affect the covenant not to sue for

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(E) This Consent Decree will be noticed by the United States in accordance with 28 C.F.R. § 50.7, and public comments will be duly considered by the United States before final entry of this Consent Decree.

XXI. EFFECTIVE AND TERMINATION DATES

(A) This Consent Decree shall be effective upon the date of its entry by this Court.

(B) When the Work has been completed pursuant to Paragraph IX hereof, and all payments have been made pursuant to this Consent Decree, this Consent Decree shall terminate. Such termination shall not affect the provisions of Paragraphs V, X, XI, XV, and XVI hereof.

XXII. USE OF DECREE

(A) This Consent Decree was negotiated and executed by the United States and the Settling Defendants in good faith to avoid further expensive and protracted litigation and is a settlement of claims that were vigorously contested, denied, and disputed as to validity and amount. The execution of this Consent Decree is not an admission of liability of any issue dealt with in this Consent Decree or an admission with respect to any question of law or fact arising out of or relating to the Site or the Waste Materials. Accordingly, it is the intention of the United States and the Settling Defendants that, with the exception of this proceeding and any other proceeding contemplated by this Consent Decree, this Consent Decree shall not be admissible into evidence in any other proceeding. It is further agreed and ordered that the payments made herein by the Settling Defendants are not and do not constitute penalties, fines, or monetary sanctions of any kind,

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except for the stipulated penalties, if any, imposed pursuant to Paragraph IX hereof.

(B) Nothing in this Consent Decree is intended to imply that the Settling Defendants have, or will not have, liability for the acts or omissions of any persons or entities who now, or may in the future, own any property comprising the Site, any persons or entities entering upon the Site with or without authorization, or of any of the Non-Settling Defendants that result in any damage, loss, or claim with respect to the Site, the Work, or the O & M Activities.

XXIII. RETENTION OF JURISDICTION

(A) This Court shall retain jurisdiction of this Consent Decree for purposes of ensuring compliance with, or modification of, its terms and conditions.

(B) The United States and the Settling Defendants each retain the right to enforce the terms of this Consent Decree and take any action authorized by federal or state law not inconsistent with the terms of this Consent Decree to achieve or maintain compliance with the terms and conditions of this Consent Decree or otherwise.

THE PARTIES ENTER INTO THIS CONSENT DECREE AND SUBMIT IT TO THE COURT, IN ORDER THAT IT MAY BE APPROVED AND ENTERED.

FOR THE UNITED STATES OF AMERICA

BY: 

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
U.S. Department of Justice
10th St. and Pennsylvania Ave., N.W.
Washington, D.C. 20530

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BY: 

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STEVEN R. BAER
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10th St. and Pennsylvania Ave., N.W.
Washington, D.C. 20530

BY: 

JAMES J. WEST
United States Attorney
Middle District of Pennsylvania

BY: 

BRUCE D. BRANDLER
Assistant United States Attorney
Office of the United States Attorney
P.O. Box 309
Scranton, Pennsylvania 18501

BY: 

BRUCE M. DIAMOND
Regional Counsel
U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

BY: 

THOMAS L. ADAMS, JR.
Assistant Administrator, Office of
Enforcement & Compliance Monitoring
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D C. 20460

FOR AMERICAN CAN COMPANY

BY: 

EUGENE F. HEALY
Managing Director
American Can Company
American Lane
P.O. Box 3610
Greenwich, Connecticut 06836-3610

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Covered Matters (as provided in Paragraphs XVI(A) hereof) by the United States to the Settling Defendants.

(E) Notwithstanding any other provision in this Consent Decree, the covenant not to sue in Paragraph XVI(A) hereof shall be subject to the satisfactory performance by the Settling Defendants of their obligations under this Consent Decree.

(F) This Paragraph XVI shall not be construed as a covenant not to sue any signatory to this Consent Decree that does not make all payments required by this Consent Decree or any other person or entity not a party to this Consent Decree. Nor shall this paragraph be construed as a covenant not to sue any parent corporations, subsidiaries, or affiliates of any of the Settling Defendants, if such parent corporations, subsidiaries, or affiliates have liability with respect to the Taylor Borough Site independent of the liability, if any, of the Settling Defendants, their respective, present and future, successors and assigns, and of the present and future successors and assigns of their divisions.

(G) For and in consideration of the covenants and promises made herein, the Settling Defendants covenant not to sue or otherwise assert any cause of action, claims, or demands against the United States, including any claims pursuant to Section 112 of CERCLA, 42 U.S.C. § 9612, or any other provision of law, directly or indirectly, or against the Hazardous Substances Superfund established by Section 221 of CERCLA, 42 U.S.C. § 9631, or other claims against the United States for expenses related to this case and this Consent Decree. Nothing in this

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Consent Decree shall constitute preauthorization within the meaning of of the National Contingency Plan.

XVII. NOTICES

Whenever under the terms of this Consent Decree notice is required to be given or a report or other document is required to be forwarded by one party to another, and the specific provision does not state a person or entity to whom, or the method by which, the communication should be directed, it shall be directed, in writing, to the following individuals at the addresses specified below (or to such other address as such individual may, from time to time, designate by written notice):

(A) If to the United States:

- (1) Office of Regional Counsel (3RC20)
Attn: Taylor Borough Site
U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-9951
- (2) Director, Hazardous Waste Management Division (3HW00)
Attn: Taylor Borough Site Remedial Project Coordinator
U.S. Environmental Protection Agency Region III
841 Chestnut Building Philadelphia, PA 19107
(215) 597-3164

(B) If to Settling Defendants:

- (1) American Can Company
Attn: Timothy G. Rogers, Esq.
American Can Packaging Inc.
American Lane
P.O. Box 2600
Greenwich, CT 06836-2600
(203) 552-3368

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- (2) Chamberlain Manufacturing Corporation
 Attn: Thomas E. Styczen, Esq.
 Duchossois Industries, Inc.
 845 Larch Avenue
 Elmhurst, IL 60126
 (312) 279-3600
 and
 Michael F. Dolan, Esq.
 Sevfarth, Shaw, Fairweather & Geraldson
 55 E. Monroe Street
 Chicago, IL 60603
 (312) 346-8000
- (3) Litton Industries, Inc.
 Litton Business Systems, Inc.
 Attn: Theodore F. Craver, Esq.
 Litton Industries, Incorporated
 1730 Pennsylvania Avenue, N.W.
 Washington, DC 20006
 (202) 383-6919
- (4) Technographics, Inc.
 Technographics Fitchburg Coated Products, Inc.
 Attn: Noel Bartsch, Assistant Secretary
 Technographics, Inc.
 601 River St.
 Fitchburg, MA 01006
 (617) 345-4361
- (5) RCA Corporation
 Attn: Edwin T. Hirsch, Esq.
 Newholland Pike
 Lancaster, PA 17604
 (717) 295-6547
 and
 Marc E. Gold, Esq.
 Wolf, Block, Schorr & Solis-Cohen
 15th & Chestnut Sts.
 Philadelphia, PA 19102
 (215) 977-2110

(C) If to Contractor:

[To be provided by Settling Defendants]

(D) If to Trustee:

[To be provided by Settling Defendants]

XVIII. CONSISTENCY WITH NATIONAL CONTINGENCY PLAN

The United States agrees that the Work, if ~~AR-200077~~
 in accordance with the specifications as set forth in the Work,

is consistent with the provisions of the National Contingency Plan pursuant to 42 U.S.C. § 9605, and subject to Paragraph XVI hereof, all actions taken or omitted pursuant to the Work are afforded all protection contained in 42 U.S.C. § 9607(d).

XIX. RESPONSE AUTHORITY

Nothing in this Consent Decree shall limit the response authority of the United States under 42 U.S.C. § 9604, or alter the applicable legal principles governing the judicial review of any action taken by the United States pursuant to that authority.

XX. OTHER PROVISIONS

(A) Except as provided for herein, there shall be no modification of this Consent Decree without the written consent of all parties to this Consent Decree and the approval of this Court.

(B) This Consent Decree may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

(C) All paragraph headings herein are for convenience only and are in no way to be construed as part of this Consent Decree or as a limitation on the scope of the provisions to which they may refer.

(D) This Consent Decree, including the Exhibits, represents the entire agreement and understanding between the Parties and shall supersede all prior drafts, writings, negotiations, and discussions between the Parties.

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FOR CHAMBERLAIN MANUFACTURING CORPORATION

BY: Thomas E. Styger

THOMAS E. STYGER
Assistant General Counsel
Duchossois Industries, Inc.
846 Tarch Avenue
Elmhurst, Illinois 60126

FOR LITTON INDUSTRIES, INC.;
and LITTON BUSINESS SYSTEMS, INC.;

BY: _____

THEODORE F. CRAVER
Staff Vice President
Litton Industries, Incorporated
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

FOR TECHNOGRAPHICS, INC.; and TECHNOGRAPHICS
FITCHBURG COATED PRODUCTS, INC.

BY: _____

JOEL RAPTECH
Assistant Secretary
Technographics, Inc.
601 River St.
Fitchburg, MA 01420

RCA CORPORATION

BY: _____

CHARLES A. QUINN
Division Vice President and General
Manager
RCA Corporation
New Holland Pike
Lancaster, Pennsylvania 17604

APPROVED and ORDERED this 26th day of July, 1987

FILED
HARRISBURG, PA.

JUL 20 1987

DONALD R. BERRY, CLERK
PER.....

DEPUTY CLERK -43-

William W. Lewis
U.S. District Judge

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FOR CHAMBERLAIN MANUFACTURING CORPORATION

BY:

THEODORE F. CRAVER
Assistant General Counsel
Duquesne Industries, Inc.
213 March Avenue
Pittsburgh, Illinois 60126

FOR LITTON INDUSTRIES, INC.:
and LITTON BUSINESS SYSTEMS, INC.:

BY:

Theodore F. Craver
THEODORE F. CRAVER
Staff Vice President
Litton Industries, Incorporated
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

FOR TECHNOGRAPHICS, INC.: and TECHNOGRAPHICS
PITTSBURGH COATED PRODUCTS, INC.

BY:

WILLIAM R. BIRCH
Assistant Secretary
Technographics, Inc.
601 River St.
Pittsburgh, PA 15220

RCA CORPORATION

BY:

CHARLES A. GUTEN
Division Vice President and General
Manager
RCA Corporation
New Holland Pike
Lancaster, Pennsylvania 17604

APPROVED and so ORDERED this _____ day of _____, 1937

U.S. District Judge **AR200080**

FOR CHAMBERLAIN MANUFACTURING CORPORATION

BY:

THOMAS E. SMYTH
Assistant General Counsel
Duquesne Industries, Inc.
845 Larch Avenue
Elmhurst, Illinois 60126

FOR LITTON INDUSTRIES, INC.:
and LITTON BUSINESS SYSTEMS, INC.:

BY:

THEODORE F. CRAVER
Staff Vice President
Litton Industries, Incorporated
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

FOR TECHNOGRAPHICS, INC.; and TECHNOGRAPHICS
PITCHBURG COATED PRODUCTS, INC.

BY:

JOEL RAPTECH
Assistant Secretary
Technographics, Inc.
601 River St.
Pitchburg, MA 01420

RCA CORPORATION

BY:

CHARLES A. QUINN
Division Vice President and General
Manager
RCA Corporation
Newholland Pike
Lancaster, Pennsylvania 17604

APPROVED and so ORDERED this _____ day of _____, 1987

U.S. District Judge

AR200081

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff,

v.

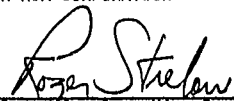
LOUIS SERAFINI, et al

Civil Action
No. CV-86-1591

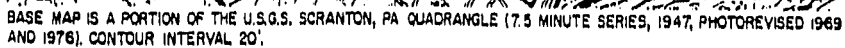
CONSENT DECREE
SIGNATURE PAGE

FOR RCA CORPORATION

BY

 ^{att.}
Roger Strelow, Vice President
Corporate Environmental Programs
of GENERAL ELECTRIC COMPANY
3135 Easton Turnpike
Fairfield, Connecticut 06431

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SCALE: 1" = 2000'



NUS
CORPORATION
A Halliburton Company

Exhibit 2

TAYLOR BOROUGH SITE TRUST AGREEMENT

DATED: _____, 1987

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ATTACHMENT

A Fee Schedule of Escrow Bank

TAYLOR BOROUGH SITE TRUST AGREEMENT

This Agreement is made this ____ day of _____, 1987, by, between, and among AMERICAN CAN COMPANY, CHAMBERLAIN MANUFACTURING COMPANY, LITTON INDUSTRIES, INCORPORATED, and RCA CORPORATION (hereinafter, referred to collectively as "Companies"); _____ (hereinafter, together with any successors designated pursuant hereto, referred to as "Trustee"); and PROVIDENT NATIONAL BANK (hereinafter, together with any successors designated pursuant hereto, referred to as "Escrow Bank").

RECITALS

WHEREAS, the Companies hereby deliver to Escrow Bank, and Escrow Bank hereby acknowledges receipt of, the funds in the proportions set forth in Exhibit 4 of the Consent Decree; and

WHEREAS, the Companies desire that such funds and any additional funds as may, from time to time, be added thereto, together with any interest, proceeds, and reinvestments thereof, shall constitute a Trust Fund that shall be administered by Trustee and Escrow Bank for the purposes and in the manner hereinafter set forth;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants contained herein, the parties hereto agree as follows:

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1. Name and Purpose.

(a) Name. The funds received by Escrow Bank from the Companies and such additional funds as may, from time to time, be added thereto, together with any interest, income, proceeds, and reinvestments thereof, shall be known as the Taylor Borough Site Trust Fund (hereinafter, referred to as "Trust Fund").

(b) Purpose. The purpose of the Trust Fund shall be to provide funds necessary to satisfy the obligations of the Companies under this Trust Agreement and the consent decree lodged on _____, 1987, in United States of America v. Louis Serafini, et al., Civil Action No. CV-86-1591 (M.D. Pennsylvania) (hereinafter, referred to as "Consent Decree"), which is incorporated herein by reference and made a part hereof, including (i) making payments to the United States of America (hereinafter, referred to as "United States"), as provided in Section 6 hereof; (ii) paying for the Work required under the Consent Decree, which shall be performed by Contractor (as hereinafter defined) under the supervision of Trustee, as set forth in Section 6 hereof; and (iii) defraying other appropriate expenses of compliance with the terms of the Consent Decree. In order to fulfill these purposes, Trustee and Escrow Bank shall familiarize themselves with the terms of the Consent Decree. This Trust Agreement shall be construed as conforming to the language of the Consent Decree.

2. Payment of Trust Funds. The Trust Fund shall be used exclusively for the purpose of funding the obligations and

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duties of the Companies under the Consent Decree. Payments shall be made from principal and income by Escrow Bank only upon receipt of written direction from Trustee, pursuant to written instruction from the Companies, which direction shall include the certification by Trustee that the payments are required to: (a) comply with the terms of the Consent Decree; (b) pay to the United States the sums due under the Consent Decree; (c) pay bond or insurance premiums or expenses under the Consent Decree or under this Trust Agreement; (d) compensate Trustee, Escrow Bank, and Contractor in accordance with this Trust Agreement; or (e) make other payments authorized by this Trust Agreement or by the Companies in furtherance of their obligations pursuant to the Consent Decree.

3. Escrow Bank.

(a) Designation of Escrow Bank. Each of the Companies, through execution of this Agreement, selects and approves Provident National Bank, of Philadelphia, Pennsylvania, as Escrow Bank. Escrow Bank does hereby contract, agree, and covenant that it will execute the Trust herein declared, created, and constituted, and that it does and will receive, hold, and administer the Trust Fund herein described in the manner provided in this instrument.

(b) Resignation and Removal. Escrow Bank may resign at any time by providing sixty (60) days' written notice of such resignation to Trustee and each of the Companies.

At any
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time during the term of this Trust, the Companies shall have the right to remove Escrow Bank serving hereunder with or without cause. In the event of such resignation or removal of Escrow Bank, Trustee shall, with the prior written approval of the Companies and prior to the expiration of the sixty-day period, appoint any other reputable corporate trustee, qualified to act as trustee under the laws of the Commonwealth of Pennsylvania, to act as Escrow Bank for purposes of this Agreement, and such successor Escrow Bank shall have all the rights, powers, duties, and obligations granted herein to the original Escrow Bank.

(c) Compensation.

(i) Escrow Bank shall, in accordance with the fee schedule attached hereto as Attachment A, be entitled to a reasonable fee for services rendered in connection with the administration of the Trust Fund. Unless this Trust Agreement states otherwise, said fee shall be payable from the Trust Fund.

(ii) In the event Escrow Bank believes it must incur any fee or expenses not specifically included in the fee schedule or receives notice of a suit or claim against the Trust Fund, it shall promptly notify Trustee and the Companies prior to incurring any such fee or expense or responding to or compromising any such suit or claim; provided, however, that (A) with respect to any such fee or expense, it shall not incur same without the prior written approval of Trustee and the Companies, and (B) with respect to any such suit or claim, the Companies shall be entitled to participate in the defense and/or settlement of such suit

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or claim and, after written notice from the Companies to Escrow Bank, to assume the defense thereof with counsel of the choice of the Companies. If the Companies assume the defense of any suit or claim against the Trust Fund, the Companies shall not be liable to Escrow Bank for any legal expense subsequently incurred by Escrow Bank in connection with the defense thereof, and the Companies shall have the authority to compromise such suit or claim or to appeal (or cause Escrow Bank to appeal) any adverse judgment or ruling.

4. Powers and Duties of Escrow Bank.

(a) Management of Funds. In the administration of this Trust Agreement and of the Trust Fund, Escrow Bank shall (i) commingle, hold, and manage the funds received from the Companies as a single fund and (ii) have sole discretion and all powers and authority necessary or available under the laws of the Commonwealth of Pennsylvania to (A) invest and reinvest the principal and income of the Trust, as directed by the Companies, in such property and in such manner as it shall deem proper to achieve maximum yield consistent with the safety of the principal and necessary liquidity and (B) change investment as directed by the Companies; provided, however, that the Trust Fund shall be invested in investment-quality certificates of deposit or other interest-bearing accounts, including those of Escrow Bank, or in United States Treasury obligations. Escrow Bank shall have such other duties as are set forth in this Trust Agreement.

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Bank shall have no duty to see to the completion of the terms of the Consent Decree, and Escrow Bank may rely upon the written direction of Trustee in making payments required under or pursuant to the Consent Decree.

(b) Duties. In addition to any other duties it may have under this Trust Agreement, Escrow Bank shall (i) make the payments to the United States and Contractor (as hereinafter defined) in the amounts as directed by Trustee; (ii) hold any monies, which are designated by Trustee and/or the Companies as stipulated penalties, in a separate, interest-bearing account and release such monies as directed by Trustee; and (iii) hold and place the monies designated by Trustee for the O&M Activities in an account established by, and for the exclusive use of, the United States.

5. Trustee.

(a) Designation. Each of the Companies, through its execution of this Agreement, selects and approves _____ as Trustee.

(b) Resignation and Removal. Trustee may resign at any time by providing sixty (60) days' written notice of such resignation to each of the Companies. At any time during the term of this Trust, the Companies shall have the right to remove Trustee serving hereunder with or without cause. In the event of the resignation or removal of Trustee, the Companies shall, within ten (10) days thereafter, appoint a person(s) or ~~an~~ ^{as} successor Trustee, who shall have all the rights, powers, duties,

and obligations granted herein to the original Trustee. Any resignation or removal pursuant to this section shall take effect upon the appointment of a successor Trustee.

(c) Compensation. The compensation of Trustee shall be in accordance with the terms of the agreement between Trustee and the Companies.

6. Powers and Duties of Trustee.

(a) Control by Companies. A majority of the Companies shall have the right to direct Trustee to take any action or to refrain from taking any action; provided, however, that such direction shall not expressly conflict with the terms of the Consent Decree or render impossible the performance of the obligations of the Companies thereunder.

(b) Employment of Contractor. Trustee shall enter into a contract, in a form acceptable to the Companies, with a third party in order to undertake and complete the Work at the Taylor Borough Site as described in Exhibit 3 to the Consent Decree, which third party shall be "Contractor" as described in the Consent Decree. Trustee shall monitor and direct the performance of the Work by Contractor as necessary to ensure the proper completion of the Work pursuant to the terms of the Consent Decree.

(c) Payments to the United States.

(i) Trustee shall direct the Escrow Bank to make the following payments as required by Paragraph VII of the

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Consent Decree within ninety (90) days of its entry by the court:

(A) To the United States, the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), and

(B) To an account established at Escrow Bank by and for the use of the United States, the sum of FOUR HUNDRED TEN THOUSAND THIRTY-NINE DOLLARS (\$410,039.00).

(ii) The payment to the United States shall be made by certified check payable to the "Hazardous Substances Superfund," and shall be delivered to the United States Environmental Protection Agency, EPA Superfund, P.O. Box 37100-3M, Pittsburgh, Pennsylvania 15251. A copy of the check shall be sent to the Regional Hearing Clerk, United States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

(d) Employment of Additional Persons. In addition to the powers and duties set forth above, Trustee is authorized to employ and dismiss (with or without cause), subject to the prior approval of the Companies, such additional persons or entities, as he shall deem advisable, and to make reasonable payments therefor, for the implementation of the purposes of this Trust Fund. The Companies shall also retain the right to direct Trustee to dismiss any such persons or entities so employed.

(e) Provision of Financial Reports and Other Information. Trustee shall: (1) with the assistance of Escrow Bank, provide financial reports concerning the Trust Fund (including cash-flow projections) to the Companies and the United

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States as provided in Paragraphs VI(G) and X(E) of the Consent Decree; (2) provide all non-privileged information in his possession relating to the Taylor Borough Site to Contractor retained to perform the Work as described in the Consent Decree; (3) notify the United States of the amount and timing of any additional payments required pursuant to Paragraph VI(C) of the Consent Decree; and (4) furnish to the United States the certificates of insurances of Contractor in the amounts prescribed in Paragraph VIII(B) of the Consent Decree.

(f) General Authority. Trustee is empowered to do any and all other acts that he shall deem proper to effectuate the powers specifically conferred upon him by this Trust Agreement, including those specifically set forth in the Consent Decree.

7. Additions to Trust Fund.

(a) Trustee shall, in consultation with Escrow Bank and pursuant to Paragraph VI(C) of the Consent Decree, make written demand upon each of the Companies for additional payments(s) to the Trust Fund in the same proportions as shown on Exhibit 4 to the Consent Decree and in such amount(s) determined by Trustee as are necessary to satisfy the purpose of this Trust as set forth in Section 1(b) hereof, and shall prescribe, consistent with Paragraph VI(C) of the Consent Decree, the time period within which such additional payment(s) shall be made.

(b) By execution of this Agreement, each of the Companies agrees to ensure that the Trust Fund has, AR200094

sufficient assets to make the payments pursuant to Section 6(c) hereof and to satisfy all future demands upon it, in accordance with the Consent Decree, for additional payment(s) to the Trust Fund within the time period prescribed by Trustee.

(c) Trustee shall notify the United States and each of the Companies in the event any of the Companies fails to make any payment in accordance with Paragraph VI(B) of the Consent Decree or fails to make any additional payment(s) as provided in Paragraph VI(C) of the Consent Decree.

8. Termination.

(a) This Trust shall terminate upon termination of the Consent Decree and upon notice by the Companies to the United States. The Companies shall notify Trustee and Escrow Bank of such termination.

(b) Upon termination of this Trust, Escrow Bank shall distribute the entire sum remaining in the Trust Fund, including any and all accrued, accumulated, and undistributed income and interest, among each of the Companies in the same proportions as shown on Exhibit 4 to the Consent Decree; provided, however, that in the event one or more of the Companies is a Defaulting Defendant, as that term is used in Paragraph VI(F) of the Consent Decree, the Trust Fund shall be distributed among each of the remaining Companies according to Exhibit 4 to the Consent Decree as recalculated omitting the Defaulting Defendant(s).

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9. Liability of Escrow Bank.

(a) Escrow Bank shall not be: (i) required to furnish any bond or surety; (ii) held responsible for any loss sustained by the Trust Fund as a result of any decisions, acts, or failures to act made in a reasonable manner and in good faith; or (iii) personally liable upon any contract or indebtedness of or claim against the Trust Fund.

(b) Escrow Bank shall not: (i) be required to defend any legal proceedings that may be instituted against it with respect to the subject matter of this Trust Agreement, unless requested to do so by the Companies and indemnified to its satisfaction against the cost and expense thereof; (ii) be required to institute legal proceedings of any kind; (iii) have any responsibility for the genuineness or validity of any document, instrument, or item deposited with it. Escrow Bank shall be fully protected in acting in accordance with any written instructions given to it by the Companies and believed by it to have been signed by the proper parties.

(c) The Companies hereby agree to use the Trust Fund to indemnify, defend, and hold harmless Escrow Bank from and against any and all losses, claims, damages, liabilities and expenses, including reasonable costs of investigation, attorneys' fees and disbursements, which may be imposed upon or incurred by it in connection with or arising from its appointment as Escrow Bank hereunder, the performance and exercise in good faith of its duties and powers hereunder, or this Trust Agreement.

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10. No Transferability of Interest in Trust.

(a) The interest of each of the Companies in the Trust, as well as the obligations of each to provide funds pursuant to this Trust Agreement, shall not be transferable, except to a successor(s) in interest.

(b) Nothing herein shall be deemed to confer any right to or interest in the Trust or the Trust Fund upon any person or entity, including, without limitation, the United States or the Commonwealth of Pennsylvania.

11. Alterations, Amendments, and Revocation.

A majority of the Companies may, from time to time and at any time during the term of this Trust, alter, amend, or replace this Trust Agreement, in whole or in part; provided, however, that any such alteration, amendment, or replacement shall be consistent with the terms of the Consent Decree and that Trustee shall, prior to the termination of this Trust, have the power and authority to effectuate the terms of the Consent Decree.

12. Counterparts and Section Headings.

(a) This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

(b) All section headings herein are for convenience only and are in no way to be construed as part of this Trust.

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Agreement or as a limitation on the scope of the provisions to which they may refer.

13. Severability. If any section of this Trust Agreement, or portion thereof, shall be adjudged illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the legality, validity, or enforceability of this Agreement as a whole or of any other section, or portion thereof, not so adjudged.

14. Governing Jurisdiction. This Trust shall be a trust within the Commonwealth of Pennsylvania, and all questions pertaining to its validity, construction, and administration shall be determined in accordance with the laws thereof. Trustee may at no time change the situs of this Trust to any other jurisdiction without the prior, written consent of the Companies. In the event of such consent, this Trust shall cease to be a trust organized and administered under the laws of the Commonwealth of Pennsylvania and shall thereafter be administered in accordance with the laws of the new governing jurisdiction.

15. Authorization. Each undersigned representative of the parties to this Agreement certifies that he or she is fully authorized to enter into the terms and conditions of the Agreement, to execute this Agreement on behalf of the party he or she represents, and legally to bind such party to this Agreement.

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16. Entire Agreement. This Agreement, including the Consent Decree, sets forth the entire agreement and understanding among the parties with respect to the subject matter hereof and shall supersede all prior agreements, commitments, representations, writings, negotiations, and discussions among them. None of the parties shall be bound by any obligations, conditions, warranties, or representations with respect to the subject matter of this Agreement other than as expressly provided in this Agreement or as duly set forth on or subsequent to the date hereof in writing and signed by the proper and duly authorized representative of each of the parties hereto. This Agreement may not be released, discharged, abandoned, changed, or modified in any manner, except by an instrument in writing signed by a duly authorized officer or representative of each of the parties hereto.

IN WITNESS WHEREOF, Trustee, Escrow Bank, and each of the Companies have caused this instrument to be signed on the date first above written.

FRED C. HART ASSOCIATES, INC.
Trustee

By: _____
[Name]
Title:

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PROVIDENT NATIONAL BANK
Escrow Bank

By: _____
[Name]
Title:

AMERICAN CAN COMPANY

By: _____
Eugene F. Healy
Title: Managing Director

CHAMBERLAIN MANUFACTURING COMPANY

By: _____
Thomas E. Styczen
Title: Assistant General Counsel

LITTON INDUSTRIES, INCORPORATED
For itself, Litton Systems, Inc.,
Litton Business Systems, Inc.,
Technigraphics Corporation, and
Technigraphics Fitchburg Coated Products

By: _____
Theodore F. Craver
Title: Staff Vice President

RCA CORPORATION

By: _____
Charles A. Quinn
Title: Division Vice President and
General Manager

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ATTACHMENT A

FEE SCHEDULE OF ESCROW BANK

0215R

AR200101